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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,206	02/22/2002	Richard J. Spady	CUP-8506	9735

7590 06/08/2006

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EXAMINER

JARRETT, SCOTT L

ART UNIT PAPER NUMBER

3623

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/080,206

Applicant(s)

SPADY, RICHARD J.

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Examiner requests copies of all of the references cited in the Specification including at least: Spady et al., The Leadership of Civilization Building (Paragraph 002), Likert, Rensis, The Human Organization (Paragraph 0049), The Leadership of Civilization Theory (Paragraph 0083), Hawking, Stephen, A Brief History of Time (Paragraph 0090), Liderbach, Daniel, The Numious Universe (Paragraph 0092), Nichol, Lee, On Dialogue (Paragraph 0103), Spady et al., The Search for Enlightened Leadership Vol. 1 and Vol. 2 (Paragraph 0127) and Wells, H.G., Reach Out Their Hands Amidst the Stars (Paragraph 0134). Applicant is reminded of the proper content of an abstract of the disclosure.

***Specification***

2. The attempt to incorporate subject matter into this application by reference to Spady et al., The Leadership of Civilization Building (Paragraphs 002, 0146) is ineffective because a an the reference was not cited in an Information Disclosure Sheet nor was of the non-patent literature provided.

The incorporation by reference will not be effective until correction is made to comply with 37 CFR 1.57(b), (c), or (d). If the incorporated material is relied upon to meet any outstanding objection, rejection, or other requirement imposed by the Office, the correction must be made within any time period set by the Office for responding to the objection, rejection, or other requirement for the incorporation to be effective. Compliance will not be held in abeyance with respect to responding to the objection, rejection, or other requirement for the incorporation to be effective. In no case may the correction be made later than the close of prosecution as defined in 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier.

Any correction inserting material by amendment that was previously incorporated by reference must be accompanied by a statement that the material being inserted is the material incorporated by reference and the amendment contains no new matter. 37 CFR 1.57(f).

3. The use of the trademarks PC Rating and CPC Rating has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks.

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Method for Displaying Opinion Poll Consensus and Polarization Ratings.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 1 rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Claim 1 lacks any of the method steps for presenting social indicators critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. Claim 1 consists only of a preamble describing a method for presenting social indicators. The method as recited does not comprise any method steps.

Examiner interpreted the claim to intend to recite a method for presenting two figures (values, metrics, etc.) related to the consensus and polarization of an opinion poll (survey, questionnaire, vote, etc.) for the purposes of examination.

***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claim 1 is rejected under 35 U.S.C. 101 because directed towards non-statutory subject matter.

For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

In the present case, claim 1 is directed to a method for presenting new social indicators wherein the method comprises no method steps and therefore does not produce a useful, concrete, and tangible. A useful, concrete and tangible result for example might include conducting an opinion poll, calculating one or more social indicators and displaying the social indicators.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claim1 is rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention.

The public use or sale of the invention, a method for presenting new social indicators, sold by the Applicant under one or more of the following product/service names: Opinionnaire, Viewspaper, Fast Forum, Polarization-Consensus Rating (PC Rating), Converted Polarization-Consensus Rating or Modified Polarization-Consensus Rating (CPC Rating), is evidenced by at least the Applicant's disclosure (Paragraphs 0010-0011, 0013, 0048) and Spady et al., A New View of Authority and The Administrative Process (1995; Paragraph 3, Page 10; Paragraphs 4-6, Page 11; Paragraphs 1, 3-5, Page 12; Paragraphs 1-5, Page 14).

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: please provide the names of any products or services that have incorporated the claimed subject matter as well as information regarding their public use and/or sale (e.g.



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product road maps, sales presentations, investor disclosures, case studies, product manuals, product brochures, etc.), and provide a citation and a copy of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter and/or products or services.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacRory, Simon et al. (Graphite HRM Developments Limited), EP 1035490 A1 in view of Spady et al., A New View of Authority and The Administrative Process (1995).

Regarding Claim 1 MacRory et al. teach a method for presenting (new) social indicators (metrics, measures, values, etc.) showing the opinions of people in figures wherein the figures comprise several percentages juxtaposed to each other as ordinal whole numbers that reduce value numbers of a value scale (Likert scale, likeability scale, agree/disagree scale, etc.; Paragraphs 0007, 0045-0047; Figure 2, Element 24; Figure 6(a); Figure 7, Element 118; Figure 12).

MacRory et al. does not expressly teach that the social indicators are either a Polarization-Consensus Rating or Converted Polarization-Consensus Rating as claimed.

Spady et al. teach a method for determining (new) social indicators wherein the social indicators wherein the indicators include either Polarization-Consensus Rating or

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Converted Polarization-Consensus Rating (Paragraph 3, Page 10; Paragraphs 4-6, Page 11; Paragraphs 1, 3-5, Page 12; Paragraphs 1-5, Page 14) in an analogous art of showing the opinions of people for the purposes of assisting users from gaining insights/feedback regarding the subject being polled/surveyed (informal feedback; Paragraph 3, page 10; Paragraph 4, Page 11).

It would have been obvious to one skilled in the art at the time of the invention that the method for presenting social indicators as taught by MacRory et al. would have benefited from presenting a plurality of social indicators including but not limited to either Polarization-Consensus Rating or Converted Polarization-Consensus Rating in view of the teachings of Spady et al.; the resultant method providing users with insights/feedback regarding the subject being polled/surveyed (Spady et al.: Paragraph 3, page 10; Paragraph 4, Page 11).

Further it is noted that Claim 1 merely states that the method displays either Polarization-Consensus Rating or Converted Polarization-Consensus Rating wherein the figures/the percentages can reduce value numbers of strongly agree, agree, neutral, disagree, strongly disagree, abstain and objection, however the method does not actually reduce the value numbers. For the purposes of examination examiner assumes the applicant will amend the claim to recite that method comprises at least the steps of conducting a poll/survey/questionnaire comprising at least one scaled question, collects

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the survey results and calculates either the Polarization-Consensus Rating or  
Converted Polarization-Consensus Rating.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kelly, Thomas, U.S. Patent No. 5,913,204, teaches a system and method for conducting one or more opinion surveys wherein the method analyzes and presents one or more measures/values related to the survey results.

- Froman, Ernest, U.S. Patent No. 6,067,719, teaches the well known conducting and analysis of opinion polls utilizing scaled questions (Likert scale, ordinal scale, etc.) wherein summaries of the polls are frequently provided.

- West et al., U.S. Patent No. 6,175,833, teaches an online interactive opinion polling system and method wherein the system provides juxtaposed percentages representing either the polarization or consensus of the online poll.

- Fuerst, Carol, U.S. Patent No. 6,189,029, teaches a online survey (questionnaire, poll, etc.) system and method wherein the system conducts, analyzes and presents the survey results.

- Jacobson, David Mitchell, Social Projection-Based Opinion Polarization Among Seventh and Eighth Grade Students (1983) teaches a method for determining the opinion polarization for Likert-type surveys/questionnaires.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
SJ  
6/5/2005

  
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